REMARKS

The December 22, 2004 Office Action was based upon pending Claims 1-26. This Amendment amends Claims 1, 10, 16 and 24.   Thus, after entry of this Amendment, Claims 1-26 are pending and presented for further consideration.

Summary of the Office Action

In the June 15, 2005 Office Action, the Examiner rejected Claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,535,916 to Nguyen ("the Nguyen patent") in view of U.S. Patent No. 5,563,946 to Cooper ("the Cooper patent").

Rejection of Claims 1-26 Under 35 U.S.C. § 103(a)

The Examiner rejected Claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over the Nguyen patent in view of the Cooper patent.

A.   Independent Claim 1 is Novel and Non-obvious

In one embodiment of the invention, the system uses a machine fingerprint that comprises a hashed string of attributes associated with an access device. This unique machine fingerprint can be used as an identifier for the access device.

For example, Claim 1 states:

> "1.   A process for collecting machine identifying information associated with a digital online access device used for substantially anonymously accessing a host computer system over a digital network, said host computer system generating an interaction record of an access therewith by said access device, and said process comprising:
>
> (a)   capturing a machine fingerprint that identifies said access device accessing said host computer system wherein said machine fingerprint comprises a hashed attribute string that is a concatenation of attributes associated with said access device;
>
> (b)   generating a interaction identification string upon said access device accessing said host computer system;
>
> (c)   associating said interaction identification string with said machine fingerprint; and
>
> (d)   associating said interaction identification string with said interaction record generated upon said access device accessing said host computer system."

Thus, the machine fingerprint is associated with three different items — 1) the access device, 2) an interaction identification string, and 3) an interaction record.

First, the machine fingerprint is associated with the access device in that it is a concatenation of attributes associated with the access device. Second, the machine fingerprint is associated with an interaction identification string that is generated when the access device accesses the computer system. Third, the machine fingerprint is associated with an interaction record when the interaction identification string (which contains the machine fingerprint) is associated with the interaction record.

B. The Nguyen Patent Does Not Teach The Claimed Machine Fingerprint Associations

The Nguyen patent, in contrast, does not associate the machine fingerprint with an access device, does not associate a machine fingerprint with an interaction identification string and does not associate a machine fingerprint with an interaction record.

Rather, the Nguyen patent makes a single association of a record identification (RID) with a client request. This RID is a number that is generated by a server. The RID is completely independent of any client machine attributes and thus is not associated with any client machine attributes.

The Nguyen patent, for example, explains that a record identification (RID) is generated by a server at the time the server receives a client request. The RID and the client request are then stored in a log file. Thus, the Nguyen patent appears to teach making a single association, namely an association of a record identifier (RID) with a client request, both of which are stored in a log file.

The following discussion explains how the Nguyen patent does not associate the machine fingerprint with an access device, does not associate a machine fingerprint with an interaction identification string and does not associate a machine fingerprint with an interaction record.

C.   The Nguyen Patent Does Not Teach The Claimed Machine Fingerprint

With respect to step (a), Nguyen does not teach the capturing of a machine fingerprint that comprises a hashed attribute string that is a concatenation of attributes associated with the access device. Applicant agrees with the Examiner's statement in the Office action that the Nguyen patent fails to teach such a machine fingerprint.

Thus, Applicant agrees that the Nguyen patent does not teach the first association of the machine fingerprint with the access device. Applicant notes that the Office Action relies on the Cooper patent for a teaching of a machine fingerprint. The combination of the Nguyen patent with the Cooper patent is discussed in further detail below.

D.   The Nguyen Patent Does Not Teach The Association Of A Machine Fingerprint With An Interaction Identification String

The Nguyen patent teaches making a single association, namely an association of a record identifier (RID) with a client request. Claim 1, in contrast, associates the machine fingerprint with multiple items. For example, with respect to step (c) in Claim 1, the Nguyen patent does not teach associating a machine fingerprint with an interaction identification string.

The Office action appears to cite the Nguyen patent at col. 5, line 65 - col. 6, line 4 and col. 6, lines 8-12 for a teaching of this association. Applicant, however, notes that the cited portions of the Nguyen patent disclose that the information stored with different log records (on various different servers) having the same unique record identifier (RID) can be combined. Applicant respectfully submits that the combining of information in two records related by a shared record identifier (RID) as in the Nguyen patent cannot fairly be asserted as associating a machine fingerprint with an interaction identification string.

The RID is a number that is generated at the server. This number is not related to any attributes of an access device. Thus, combining information in two records that share the same RID also would not associate any attributes of an access device with an interaction record.

Also, as stated in col. 5, lines 18-43 of the Nguyen patent, a web server attaches the RID to a log file. Even if the RID when combined with the record log could be viewed as an identification string, which they cannot, the result would still not be a string that contains client device attributes. Neither the RID, nor the record log store attributes about the client device. While the log file may include information regarding when the request was made or where the client request is originating from, the Nguyen patent does not teach that this origination information contains attributes of an access device let alone a concatenation of attributes associated with the client device.

E. The Nguyen Patent Does Not Teach The Association Of A Machine Fingerprint With An Interaction Record

With respect to step (d) in Claim 1, the Nguyen patent does not teach associating the machine fingerprint with an interaction record. As discussed above, the Nguyen patent teaches making only a single association between the RID and the rest of the record, an association that does not contain any attributes of the client device.

The Office action cites the Nguyen patent at col. 5, line 65 - col. 6, line 4 and col. 6, lines 8-12 for a teaching of this association. As stated above, these cited portions disclose that the information stored with different log records (on various different servers) having the same RID can be combined. Applicant respectfully submits that the combining of information in two records related by a RID as in the Nguyen patent cannot fairly be asserted as associating a machine fingerprint with an interaction record.

The records being combined are only parts of an overall record of the same interaction of the client with various different servers, each part of the overall record using the same record identifier because they are part of the same overall record. Thus, the Nguyen patent teaches making only a single association between the RID and the rest of the record. It is just that the rest of the record is possibly stored on different servers as different partial records, each related to the other via the RID.

Furthermore, as stated above, neither the RID, nor the log records, store attributes about the client device.

Thus, there is simply no teaching or suggestion of making the claimed machine fingerprint associations, and more specifically, of 1) making an association of a

-13-

machine fingerprint with an access device, 2) making an association of a machine fingerprint with an interaction identification string and 3) making an association of a machine fingerprint with an interaction record, as in Claim 1. An advantage of making these associations is that the interaction record in Claim 1 contains information that identifies the access device.

Since the teachings and suggestions of the Nguyen patent cannot be used to relate an interaction record with an access device whereas the invention as in Claim 1 does just that, the teachings and suggestions of the Nguyen patent cannot fairly be asserted as including all the associations as recited in Claim 1.

F.   The Cooper Patent Does Not Teach Hashing

The Office Action indicates that the Nguyen patent does not teach the use of a machine fingerprint that comprises a hashed attribute string that is a concatenation of attributes associated with the access device. Thus, the Office Action combines the Nguyen patent with the Cooper patent.

Combining the Cooper patent with the Nguyen patent does not teach one to replace the numerically generated RID in Nguyen with machine identification file described in the Cooper patent. Furthermore, there is no teaching in either reference to generate an RID and then combine it with the machine identification file described in the Cooper patent.

In addition, even if the Nguyen patent could be combined with the Cooper patent, which they cannot, the combination still would not teach applicant's claimed inventions. The Cooper patent does not teach the concept of a machine fingerprint that comprises a hashed attribute string. Applicant respectfully submits that nowhere does the Cooper patent ever mention a hash operation--a one-way mapping that does not use a key.

Instead, the Cooper patent mentions an encryption operation, which, to one skilled in the art, is understood to be a reversible operation, using a key to encrypt and the same or a different key to decrypt. The Date Encryption Standard (DES) is given as an example.

-14-

The Cooper patent teaches using DES in its usual way, i.e. for encryption, using a key, as opposed to for performing a hash operation. For example, at col. 25, line 65 through col. 26, line 2, the Cooper patent explains:

> "Both key file 1653 and machine identification file 1655 are encrypted with any conventional encryption operation (such as the DES algorithm), which is keyed with a key which is derived from a unique system attribute of source computer 1651."

Thus, the Cooper patent does not disclose using a hash operation, but instead describes an encryption operation. The Cooper patent needs to use encryption because the Cooper patent teaches that the files are to be decrypted. At col. 25, lines 2-4, the Cooper patent explains:

> "At the commencement of an export operation, key file 1653 and machine identification file 1655 are decrypted."

Thus, even if the Cooper patent can be combined with the Nguyen patent, which it cannot, the combination does not teach or suggest all the claim limitations, as it must according to the MPEP at 706.02(j) in order for a rejection based on a combination of references to be proper. Withdrawal of the rejection of Claim 1 is therefore respectfully requested.

G.   Independent Claims 7, 16 and 24 are Novel and Non-obvious

Independent Claims 7, 16 and 24 have at least one of the limitations discussed above with respect to Claim 1. Thus, Claims 7, 16 and 24 are believed to be patentable for the applicable reasons discussed above with respect to Claim 1, and because of any additional features recited therein.

H.   Dependent Claims 2-6, 8-15, 17-23, 25 and 26 are Novel and Non-obvious

Dependent Claims 2-6, 8-15, 17-23, 25 and 26 which depend respectively from independent Claims 1, 7, 16, and 24 are believed to be patentable for the same reasons articulated above with respect to Claims 1, 7, 16 and 24 and because of the additional features recited therein.

Request For Telephone Interview

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. Applicant's attorney can be reached at (949) 721-2998 or at the number listed below.

Conclusion

Applicants have endeavored to address all of the Examiner's concerns as expressed in the Final Office Action. In light of the above remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____9 / 13 / 05_____   By: _____John R. King_____
                                      John R. King
                                      Registration No. 34,362
                                      Attorney of Record
                                      Customer No. 20,995
                                      (949) 760-0404

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-16-